



February 22, 2002

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## ENGROSSED SENATE BILL No. 516

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DIGEST OF SB 516 (Updated February 20, 2002 10:56 AM - DI 87)

**Citations Affected:** IC 4-3.

**Synopsis:** Small business development corporation. Abolishes the enterprise development board and transfers its responsibilities with respect to the administration of the enterprise development fund and the small and minority business financial assistance program to the small business development corporation. Repeals references to the enterprise development board and makes conforming changes.

**Effective:** July 1, 2002.

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### Merritt, Smith S

(HOUSE SPONSORS — KUZMAN, WHETSTONE)

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January 14, 2002, read first time and referred to Committee on Energy and Economic Development.

January 29, 2002, reported favorably — Do Pass.

February 1, 2002, read second time, ordered engrossed. Engrossed.

February 5, 2002, read third time, passed. Yeas 48, nays 0.

#### HOUSE ACTION

February 11, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 21, 2002, reported — Do Pass.

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ES 516—LS 7281/DI 44+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED SENATE BILL No. 516

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-3-12-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The articles of incorporation  
3 and bylaws of the Indiana small business development corporation  
4 must provide that:

5 (1) the exclusive purpose of the corporation is to contribute to the  
6 strengthening of the economy of the state by encouraging the  
7 organization and development of new business enterprises,  
8 including technologically oriented enterprises;

9 (2) the board of directors of the corporation is composed of:

10 (A) the lieutenant governor or the lieutenant governor's  
11 designee;

12 (B) two (2) persons appointed by the governor from  
13 recommendations provided by statewide business  
14 organizations;

15 (C) two (2) persons appointed by the governor to represent  
16 local host organizations of the small business development  
17 center network; ~~and~~

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(D) ~~four (4)~~ **three (3)** persons appointed by the governor, who must have experience in business, finance, education, entrepreneurship, or technology development; **and**

**(E) one (1) person appointed by the governor to represent nontraditional entrepreneurs (as defined in IC 4-3-13-6);**

(3) the governor shall appoint one (1) of the members of the board of directors to serve as chairman of the board at the pleasure of the governor;

(4) the corporation may receive money from any source, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(5) the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;

(6) any changes in the articles of incorporation or bylaws must be approved by the governor;

(7) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

(8) the annual report shall include detailed information on the structure, operation, and financial status of the corporation;

(9) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen

(14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(10) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) Not more than five (5) of the members of the board of directors of the corporation may be members of the same political party.

SECTION 2. IC 4-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. The corporation, after being certified by the governor under section 1 of this chapter, may:

(1) establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises;

(2) conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise;

(3) establish a statewide network of public, private, and

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educational resources to assist the organization and development of new enterprises;

(4) operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses;

(5) cooperate with the Indiana business modernization and technology corporation, other public and private entities, including the Indiana small business development network and the federal government marketing program, in exercising the powers listed in subdivisions (1) through (4);

(6) establish and administer the small and minority business assistance program under IC 4-3-16;

(7) **approve and administer loans from** the enterprise development fund established under IC 4-3-13; and

(8) coordinate state-funded programs that assist the organization and development of new enterprises.

SECTION 3. IC 4-3-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) The enterprise development fund is established. The fund is a revolving fund for the purpose of:

(1) providing loans approved by the ~~state board~~ **corporation** under this chapter **and IC 4-3-12-3;**

(2) providing loans or loan guarantees under the small and minority business financial assistance program established by IC 4-3-16; and

(3) paying the costs of administering this chapter and IC 4-3-16.

The fund shall be administered by the corporation.

(b) The fund consists of:

(1) amounts appropriated by the general assembly;

(2) the repayment proceeds (including interest) of loans made from the fund; and

(3) donations, grants, and money received from any other source.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of this audit.

SECTION 4. IC 4-3-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. **(a)** The ~~state board~~



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**corporation** shall perform the following duties:

- (1) Establish **and implement** the policies and procedures to be used by the corporation in the administration of the fund.
- (2) Subject to section 17 of this chapter, establish criteria for awarding loans from the fund.
- (3) Review and approve or disapprove applications for loans from the fund.
- (4) Establish the terms of loans from the fund, which must include the conditions set forth in section 18 of this chapter.
- (5) ~~Assist the corporation in negotiations with local boards.~~  
**Award the loans approved under this chapter.**
- (6) ~~Provide the staff and other resources necessary to implement this chapter.~~
- (7) ~~Prepare and distribute to appropriate entities throughout Indiana requests for proposals for the organization and operation of local pools.~~
- (8) ~~Conduct conferences and seminars concerning the fund.~~
- (9) ~~Submit a report concerning the fund to the general assembly before November 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the fund.~~

**(b) The corporation may enter into contracts necessary for the administration of this chapter, including contracts for the servicing of loans from the fund.**

SECTION 5. IC 4-3-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. A local board may apply for a loan from the fund. A local board's application for a loan must include the following information:

- (1) The total amount of the loan requested from the fund.
- (2) The total amount of matching funds to be provided from the local pool operated by the local board and the sources of those matching funds.
- (3) A detailed description of the local pool, including its investment criteria.
- (4) The impact of the proposed loan on job production in the area served by the local pool.
- (5) Any other information requested by the ~~board~~ **corporation**.

SECTION 6. IC 4-3-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. The ~~state board's~~ **corporation's** criteria for awarding loans from the fund to a local board must include the following factors:

- (1) The extent to which local financial institutions invest and



participate in the local pool.

(2) The extent to which the local pool is used as a secondary source of financing that complements conventional financing provided by existing financial institutions.

(3) The local board's knowledge of successful business practices.

(4) The extent to which the local board will target the proceeds of the loan toward nontraditional entrepreneurs.

(5) The extent to which the local board intends to use the loan proceeds for investment in debt, equity, debt with equity attributes, or other forms of creative financing.

(6) The extent to which the local board's proposed program will encourage clustering of small business programs through proximity to small business incubators and other sources of small business assistance and technology transfer.

(7) Other criteria established by the ~~state board~~ **corporation**.

SECTION 7. IC 4-3-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. A loan from the fund to a local board is subject to the following conditions:

(1) The local board may use the loan from the fund only for the purpose of making and servicing grants, equity investments, loans, and loan guarantees to persons who are establishing or operating businesses in Indiana. However, the local board may not spend any part of the loan from the fund to defray the expenses of servicing grants, loans, and loan guarantees unless that expenditure is specifically authorized in the loan agreement with the ~~state board~~ **corporation**.

(2) The term of the loan may not exceed twenty (20) years.

(3) The loan must require the local board to provide matching funds in an amount determined by the ~~state board~~ **corporation**. However, the total of the loan plus the matching funds must be at least:

(A) one million dollars (\$1,000,000) for a local investment pool established under section 19 of this chapter; or

(B) five hundred thousand dollars (\$500,000) for a local opportunity pool established under section 20 of this chapter.

(4) The ~~state board~~ **corporation** may forgive or defer payment of all or part of the interest and principal on the loan.

(5) The loan agreement must require the local board, through its staff or consultants, to perform the following duties with respect to recipients of financial assistance from the local pool:

(A) Provide training in business and financial management techniques.



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(B) Oversee the fiscal operations of the recipients of financial assistance for at least one (1) year following the receipt of that assistance.

(C) Provide fiscal management assistance to recipients of financial assistance when necessary for at least one (1) year following the receipt of that assistance, including assistance in the preparation and filing of federal and state tax returns.

(6) The local board must make a report concerning the local pool to the ~~state board~~ **corporation** before September 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the local pool.

(7) Any other conditions that the ~~state board~~ **corporation** considers appropriate.

SECTION 8. IC 4-3-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter, "approved lender" means:

- (1) any lending institution; or
- (2) any bank, trust company, building and loan association, or credit union;

that is approved by the ~~state board~~ **corporation** as a lender under this chapter.

SECTION 9. IC 4-3-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. The corporation shall do the following:

- (1) ~~Administer~~ **Establish and implement the policies and procedures to be used in the administration of** this chapter. ~~in accordance with policies established by the state board.~~
- (2) Enter into contracts and guarantee agreements, as necessary, with approved lenders, state governmental agencies, corporations, and United States governmental agencies, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers.
- (3) **Establish criteria for awarding loans and loan guarantees from the fund and** require that any loan or loan guarantee under this chapter be disbursed and repaid in the manner that the ~~state board~~ **corporation** prescribes.
- (4) Accept, use, and disburse federal funds made available to the corporation ~~or state board~~ by the federal government for the purposes described in this section.
- (5) Take, hold, and administer, on behalf of any loan program and for the purposes of this chapter, property and money and the interest and income derived from the property and money either

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absolutely or in trust.

(6) Accept gifts, grants, bequests, devises, and loans for the purposes of this chapter.

(7) Adopt bylaws to implement this chapter.

SECTION 10. IC 4-3-16-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) The training required by section 14 of this chapter may be provided by consultants or staff members of the corporation. The ~~state board~~ **corporation** shall establish standards for the training.

(b) The duties of the consultants or staff members are as follows:

(1) To provide training in business and financial management techniques to the recipients of loans under this chapter when directed by the ~~state board~~ **corporation**.

(2) To oversee the fiscal operations of recipients of loans under this chapter for at least one (1) year following the receipt of the loan.

(3) To provide fiscal management assistance when necessary for at least one (1) year following the receipt of the loan, including assisting recipients in filing state and federal tax returns.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 4-3-13-7; IC 4-3-13-10; IC 4-3-13-11; IC 4-3-13-12; IC 4-3-13-13; IC 4-3-13-14; IC 4-3-13-21; IC 4-3-16-7.5; IC 4-3-16-10.5.

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SENATE MOTION

Mr. President: I move that Senator Smith S be added as coauthor of Senate Bill 516.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Energy and Economic Development, to which was referred Senate Bill No. 516, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 516 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 8, Nays 0.

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ES 516—LS 7281/DI 44+



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 516, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

KUZMAN, Chair

Committee Vote: yeas 12, nays 0.

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